

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)
)
)
v.) 2:18cr00185
) **Electronic Filing**
MATTHEW DAVID STANLEY)

MEMORANDUM ORDER

AND NOW, this 20th day of May, 2022, upon consideration of the Defendant's Motion to Amend/Correct the Judgment Order of April 8, 2019, and the government's response thereto, IT IS ORDERED that [52] the motion be, and the same hereby is, granted. The Judgment Order is corrected pursuant to Rule 36 to provide that the sentence in this case shall run concurrent with any state court sentence defendant was serving on April 8, 2019 (including CP 0013073-2010).

This court made clear in its Judgment Order at the above-captioned case that the sentence was to run concurrent with the state sentence defendant was serving at the time of sentence. See Judgment Order of April 8, 2019 (Doc. No. 50), at p.2. The records before this court at that time indicated only that defendant was serving a state sentence at CP 11229-2013. See Presentence Investigation Report (Doc. No. 32) at p.1. No other state sentence was identified at the time of sentencing. This court effectuated its intent based on the information that was before it at the time.

Hindsight has revealed that defendant actually was serving a sentence at CP 0013073-2010 and not CP 11229-2013. The court first became aware of this difference when defendant filed the instant motion to correct. In other words, before the filing of that motion the possibility that there were alternatives as to the state sentence being served was not made known to the court and therefore it could not have made a choice between competing alternatives. Thus, a

clear error in rendering the sentence within the meaning of Rule 35 could not have occurred at the time of sentencing.

Moreover, the court made clear its intent to have its sentence run concurrent with the state sentence defendant was serving. See Minute Entry of March 21, 2019, and the Judgment Order of April 8, 2019. Without the correction of the error effectuated by this order, the original and clear intent of this court would be thwarted. Consequently, defendant's motion has been granted.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: Ross Lenhardt, AUSA
Chris Rand Eyster, Esquire

United States Probation Office
United States Marshal

(Via CM/ECF Electronic Mail)